



The motion is denied. I recently denied a similar motion filed by Tropiano's co-defendant, Ernest Montevercchi, *see* Order (June 8, 2020), ECF No. 694, and the rationale behind that denial holds true here.

A sentence reduction under 18 U.S.C. § 3582(c) is only permitted if, *inter alia*, “after considering the factors set forth in [18 U.S.C.] section 3553(a),” the court determines that “extraordinary and compelling reasons warrant such a reduction,” 18 U.S.C. § 3582(c)(1)(a). While the COVID-19 pandemic surely qualifies as an “extraordinary and compelling” situation, the factors laid out in 18 U.S.C. § 3553(a) persuade me that Tropiano's motion should be denied. In denying Montevercchi's motion for release, I explained that participation in organized crime is a serious offense; that Montevercchi had a troubling history of racketeering misconduct, even into his late fifties; that Montevercchi had served only a small portion of his sentence; and that he had been involved with threatening a victim with violence. Here, Tropiano likewise was a member of an organized crime family; has a history of violent crime<sup>3</sup> that began when he was a teenager and extends into his mid-sixties; has served only a third of his prison sentence; and participated in threatening the same victim as Montevercchi—Montevercchi directed Tropiano to intimidate the victim, but it was Tropiano who ultimately did the actual in-person threatening. And even after threatening the victim in person, Tropiano “continued to attempt to extort [him] by leaving voice messages and handwritten notes at [his] company.” PSIR at ¶ 28.

Under these circumstances, the Section 3553(a) factors—most conspicuously the nature of the offense, the defendant's history, the need to reflect the seriousness of the offense, the need for general and specific deterrence, the need to protect the public from further crimes, and the “need to avoid unwarranted sentencing disparities among defendants with similar records

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<sup>3</sup> According to an NYPD arrest report, Tropiano, *at age 64*, was arrested for an assault in which he “punched and kicked a victim in the head and face.” PSIR at ¶ 58. Tropiano pleaded guilty to third-degree assault. *See id.*

who have been found guilty of similar conduct” ——weigh heavily against granting the instant motion. I commented at the sentencing that Tropiano’s “crime was rather a nasty crime,” that this behavior was “not aberrational,” and that: “I have to promote respect for the law. What will be the respect if someone engaged in such conduct as part of a racketeering enterprise gets off with a year and a day or something like that, as [Tropiano] suggests? I think people will lose respect for the law.” Sentencing Tr. at 7-8, 14. The COVID-19 outbreak does not make that statement any less true today. Tropiano committed a serious crime, has a demonstrated history of serious——often violent——conduct, and has served only a small portion of his sentence. To release him now would be both contrary to statute and unjust. *See United States v. Martinez*, 12 Cr. 862, 2020 WL 2079542, at \* (S.D.N.Y. Apr. 30, 2020) (“When presented with motions for compassionate release due to COVID-19 brought by defendants with violent criminal histories, courts in this District have generally concluded that the Sentencing Commission’s guidance cuts against granting release.”).

Finally, Tropiano suggests that the Court should “modify Mr. Tropiano’s sentence so that he may serve the balance of [his sentence] under home confinement,” Def. Mtn. at 6, but “convert[ing] the custodial portion of [a] sentence to home confinement ... [is] not authorized by statute,” *United States v. Garcia*, 18 Cr. 802, 2020 WL 2468091, at \*7 (S.D.N.Y. May 13, 2020), and, in any case, unwarranted on the facts.

In sum, the motion for release is denied (ECF No. 690). The Clerk is hereby instructed to close the motion.

SO ORDERED.

Dated: June 19, 2020  
New York, New York

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ALVIN K. HELLERSTEIN  
United States District Judge